

2007 WL 7265485 (Mich.Cir.Ct.) (Trial Motion, Memorandum and Affidavit)
Circuit Court of Michigan.
Wayne County

THE PEOPLE OF THE STATE OF MICHIGAN, Plaintiff,
v.
Lamont HOUSEY, Defendant.

No. 07-12098.
2007.

**Motion in Limine: People's Motion to Admit Evidence Pursuant to Mre 803(24),
or in the Alternative, Admit Evidence Pursuant to People V. Thompson¹**

Hon. [C. Youngblood](#).

NOW COME THE PEOPLE OF THE STATE OF MICHIGAN, by and through Wayne County Prosecutor, KYML. WORTHY, and Assistant Prosecuting Attorney, JAIMIE M. POWELL, respectfully request that this Honorable Court admit the following testimony at trial pursuant to [MRE 803\(24\)](#), or in the alternative, pursuant to the proposition articulated by the Michigan Supreme Court in People v. Thompson,² (recognized by other state and federal courts) that allows the identity of a participant to a phone conversation to be shown through circumstantial evidence.

1. Defendant, Lamont Housey, is charged in case no. 07-12098 with Armed Robbery, and Felony Firearm.
2. On 6-29-07, Linda Moon was robbed at gunpoint in the driveway of her home. The assailant took Ms. Moon's cell phone, and made numerous calls from Ms. Moon's phone.
3. Ms. Moon subsequently picked the defendant, Lamont Housey, out of a photo line-up.
4. On August 20, 2007, at the preliminary exam, Lamont Housey was present and sitting at the defense table. Ms. Moon testified that the person she picked out of the line-up was the person who robbed her (Housey was the person picked in the line-up). She also testified that the person in court (who was Lamont Housey) looked like the robber, but that he looked different the day of the exam and that she was unsure.
5. The District Court bound the case over, relying on the victim's identification of Mr. Housey at the line-up, in conjunction with the fact that Ms. Moon testified that Mr. Housey, in person, looked like her assailant.
6. Concerned about the issue of identification at trial, the People obtained a copy of the victim's phone records and began to investigate the numbers in order to develop the case further (a copy was given to the defense).
7. Prosecutor Jaimie Powell, interns of the **Elder Abuse** Unit, and Ofc. Dion Peoples attempted to do reverse look-ups on the numbers called by the assailant after the robbery and make phone calls in an effort to locate possible witnesses and to see if any of the numbers had any connection to the charged defendant, Lamont Housey.
8. Prosecutor Jaimie Powell called (313) 915-1557, the number was not registered to defendant. A male at the number acknowledged his name was Lamont Housey. Jaimie Powell cannot authenticate the voice of the defendant.

9. The People seek to admit the testimony of Jaimie Powell (another prosecutor will be made available to try the case if the court grants this motion) pursuant to [MRE 803 \(24\)](#) in the best interests of justice, or in the alternative, to find that such testimony is admissible on the basis that the identity of a participant in a telephone conversation may be established by circumstantial evidence and that such a finding is supported in *People v. Thompson*.³

10. [MRE 803\(24\)](#) allows the admission of a statement that would otherwise be hearsay if the statement contains equivalent circumstantial guarantees of trustworthiness, and if the court determines that the statement is offered as evidence of a material fact, that the statement is more probative on the point for which it is offered than any other evidence that the proponent can procure through reasonable efforts, and that the general purposes of these rules and the interests of justice will best be served by the admission of the statement into evidence.⁴

11. In the alternative, the People request that this court admit this testimony under a class of cases which recognize the position that the identity of a party may be established by circumstantial evidence, including self-identification. Such proposition has been cited frequently by federal courts, other jurisdictions⁵, and once by the Michigan Supreme Court.⁶

12. *In this case, the victim picked Lamont Housey out of a photo line-up. Lamont Housey is the person who answered at a number reflected on the victim's phone bill after the robbery.*

13. Further, another number on the victim's bill comes back to an LP Pittman (313-922-1758). Mr. Pittman, spoke with Jaimie Powell and informed her that Lamont Housey was a relative through marriage. Jaimie Powell informed Ofc. Dion Peoples, who then took a written statement from Mr. Pittman on 9/21/07 in which Mr. Pittman repeated that Mr. Housey was a relative. Subsequently, Mr. Pittman recanted.

14. The People seek only to admit the testimony of Jaimie Powell in regards to the number where Lamont Housey answered the phone. We cannot introduce testimony in regards to Mr. Pittman's relation to defendant unless Mr. Pittman himself testifies pursuant to the Confrontation Clause. However the court may consider it as part of the totality of the circumstances in deciding whether or not Ms. Powell should be allowed to testify as to the number where Lamont Housey answered the phone.

WHEREFORE, the People of the State of Michigan, respectfully request that this Honorable Court grant the People's Motion to admit the testimony of Jaimie Powell pursuant to [MRE 803\(24\)](#) in the best interests of justice, or in the alternative, pursuant to the proposition articulated by the Michigan Supreme Court in *People v. Thompson*, which is recognized by the Federal Courts and numerous other jurisdictions⁷ which allows for the identity of a participant to a phone conversation to be shown through circumstantial evidence.

Respectfully submitted

<<signature>>

Jaimie Powell

Asst. Prosecutor

XX/XX/

Footnotes

1 [People v. Thompson, 231 Mich. 256 \(1925\)](#)(Michigan Supreme Court case which recognizes the position that the identity of a
participant in a telephone conversation may be established by circumstantial evidence. *See also* [US. v. Pruitt, 702 F.2d 152 \(1983\)](#),
and 79 ALR 3d (1977) entitled *Identification by Circumstantial Evidence*.
2 *Id.*
3 *Thompson* at 258 (recognizing the proposition that circumstantial evidence may establish the identity of a participant in a conversation,
though the Court did not find sufficient circumstantial evidence in that particular case.)
4 See [People v. Katt, 468 Mich. 272 \(2003\)](#) for an analysis of [MRE 803\(24\)](#).
5 [People v. Pruitt, 702 F.2d 152 \(1983\)](#), [State v. Silverman, 148 Or. 296 \(1934\)](#), [Van Riper v. US, 13 F.2d 961 \(1926\)](#), [State v. Gross,](#)
[2003 WL 23221520 \(Or. App\)](#).
6 [People v. Thompson, 231 Mich. 256 \(1925\)](#).
7 *Id.*

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.